

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

COUNSELORS AT LAW

ONE COMMERCE PLAZA
SUITE 1705
ALBANY, NEW YORK 12260
518-465-5551
FACSIMILE: 518-465-2033

1300 CONNECTICUT AVENUE, N.W.
SUITE 600
WASHINGTON, DC 20036
202-955-6340
FACSIMILE: 202-223-0358

990 STEWART AVENUE, SUITE 300
P.O. BOX 9194
GARDEN CITY, NEW YORK 11530-9194
516-741-6565

FACSIMILE: 516-741-6706
E-MAIL: meyersuoizzi@msek.com
WEBSITE: <http://www.msek.com>

1350 BROADWAY, SUITE 501
P.O. BOX 822
NEW YORK, NEW YORK 10018-0026
212-239-4999
FACSIMILE: 212-239-1311

425 BROADHOLLOW ROAD, SUITE 405
P.O. BOX 9064
MELVILLE, NEW YORK 11747-9064
631-249-6565
FACSIMILE: 631-777-6906

LOIS CARTER SCHLISSEL

May 5, 2011

BY ECF

Honorable Denis R. Hurley
Senior United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: Lara Curto v. Medical World Communications, Inc., et al.
Case Number: CV-03-6327 (DRH)(MLO)

Dear Judge Hurley:

This firm, together with Liddle & Robinson LLP and Forchelli, Curto, Deegan, Schwartz, Mineo, Cohn & Terrana, LLP, represents Plaintiff Lara Curto in the referenced action. We write, pursuant to Fed. R. Civ. P. 16(a), to respectfully request that the Court convene a Pretrial Conference to consider whether oral argument on Defendants' May 5, 2009 objections to Magistrate Judge Orenstein's April 21, 2009 Order (Dkt. Nos. 311-314) would be helpful to the Court's consideration of that appeal, and, if so, to schedule that conference.

The pending objection is Defendants' fourth appeal related to Magistrate Judge Orenstein's discovery ruling that the "April 2003 (Hennessy) Memos," prepared by Plaintiff Curto and her attorney husband Andrew Curto, are protected from disclosure by attorney client privilege and work product immunity. The first three objections were denied by the Court. We are concerned that this succession of discovery appeals has consumed the procedural history of this 2003 case since the summer of 2006, and thus for almost five years – all after deposition discovery had been completed. By Order of June 24, 2008, consideration of Defendants' motions for summary judgment (filed in November 2007) has been held in abeyance, largely on the basis of Defendants' continuing challenge to the Hennessy Memo rulings. Defendants now have suggested to Magistrate Judge Boyle, citing the significant time that has passed since deposition discovery was

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completed and the summary judgment motions filed, that a new round of *de bene esse* depositions should be taken, and that some rebriefing may be required. (Dkt. No. 332).

It is for these reasons that we suggest that a Rule 16 Pretrial Conference to consider scheduling oral argument on the Defendants' pending Rule 72 appeal may be helpful to the parties and to the resolution of that appeal.

Respectfully submitted,

s/Lois Carter Schlissel

Lois Carter Schlissel

cc: All Counsel of Record (by ECF)

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